

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Irrigation & CAD Department – Sri P.L.N.Sarma, Assistant Engineer (Retd.), formerly worked at Town Works Section, Irrigation Circle, Vijayawada, Krishna District - Stoppage of Provisional Pension - Orders- issued.

IRRIGATION & C.A.D. (IW:SERVICES-VI(1) DEPARTMENT

G.O.Rt.No. 1523.

Dated 21-12-2010.

Read the following:-

1. From the Hon'ble Court of Special Judge for SPE & ACB Cases, Vijayawada Judgement dated 03-07-2007 in C.C.No.15/2003.
2. From the Hon'ble High Court of A.P., Hyderabad, Orders dated 19-07-2007 in Criminal A.M.P.No.1216/2007 in Criminal Appeal No.902/2007.
3. G.O.Ms. N o.146, Irrigation & CAD (Ser.VI(1) Department, dated 20-08-2007.
4. Representation from Sri P.L.N.Sharma, Asst. Engineer (Retd.), dated 29-07-2008.
5. G.O.Rt.No.1380, Irrigation & CAD (Ser.VI(1) Department, dated 21-10-2008.
6. From the Hon'ble High Court of A.P., Hyderabad, Judgement dated 17-11-2009 in W.P.No.8000/2009 and batch cases.

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ORDER:

In the reference 1st read above, the accused officer Sri Peyyeti Laxmi Narasimha Sarma, Assistant Engineer, formerly worked at Town Works Section, Irrigation Circle, Vijayawada, Krishna District was found guilty and convicted by the Orders dated 03-07-2007 of Hon'ble Court of Special Judge for SPE & ACB Cases, Vijayawada in C.C.No. 15/2003.

2. In the reference 2nd read above, the sentence imposed by the Trial court against the above retired government servant was suspended by the Hon'ble High Court of Andhra Pradesh, Hyderabad.

3. In the G.O. 3rd read above, orders were issued withholding the Pension and Gratuity in full permanently against Sri Peyyeti Laxmi Narasimha Sarma, Assistant Engineer (Retd.), formerly worked at Town Work Section, Irrigation Circle, Vijayawada, Krishna District, as he was found guilty and convicted by the Orders dated 03-07-2007 of Hon'ble Court of Special Judge for SPE & ACB Cases, Vijayawada in C.C.No. 15/2003 under rule 9 of A.P.Revised Pension Rules, 1980.

4. In the reference 4th read above, Sri P.L.N. Sarma, in his representation informed that he was sanctioned provisional Pension by the Accountant General, Hyderabad (PPO 19-S-016602), 258/SP-370/2005-08, dated 17-10-2005 and paid to him. He further informed that as per his conviction on the orders of Hon'ble Court of Special Judge for SPE & ACB Cases dated 03-07-2007 in C.C.No.15/2003, Government issued orders withholding his entire pension and Gratuity in full, permanently, vide G.O.Ms.No.146, Irrigation & CAD (Ser.VI(1) Department, dated 20-08-2007. The said punishment was challenged by him in the High Court of Andhra Pradesh, Hyderabad, upon which the Hon'ble High Court suspended the sentence of imprisonment vide orders in CrI.A.M.P.No.1216/2007 dated 19-07-2007. Stating thus, Sri. P.L.N. Sarma requested Government to issue necessary orders for payment of Provisional Pension to him, as he is suffering with financial stringency and unable to look after his family as he had no other income. Government carefully examined the request of Sri P.L.N.Sarma, Assistant Engineer (Retired), in light of the orders passed by Hon'ble High Court in a different case of a similarly convicted retired employee of the I&CAD Department, dated 03.09.2007 in W.P. No.16930 of 2007, in which it was held that when the sentence in case of a convicted employee stood suspended, the employee had to be paid provisional pension as per Rule 52(1) (b) of the A.P. Revised Pension Rules, 1980. Government took into consideration of the fact that in the said case, the orders of Hon'ble High Court of Andhra Pradesh were implemented pending the outcome of Contnd..2.

Government's appeal in the Hon'ble Supreme Court. After much circumspection, for the sake of maintaining uniformity, Government decided to accept request of Sri. P.L.N. Sarma, and in the reference 5th read above, orders were issued sanctioning Provisional Pension to Sri P.L.N.Sarma, Assistant Engineer (Retd.), formerly worked at Town Works Section, Irrigation Circle, Vijayawada, Krishna District, from the month of stoppage of Provisional Pension consequent to orders issued in G.O. 3rd read above, subject to outcome of the Criminal Appeal No.902 of 2007 pending on the file of the High Court of Andhra Pradesh.

5. Subsequently, in the reference 6th read above, Hon'ble High Court of Andhra Pradesh, Hyderabad, in its Common Order dated 17-11-2009 in W.P.No.8000/2009 & batch cases has held that :

"The power of dismissal or removal exercised by the State/disciplinary authority in such cases has been held to be in public interest. It has also been held that continuing such officer in service would not only be against public interest but would also demoralize other honest officers. Furthermore, the action and treatment towards government employees by the State cannot be discriminatory or selective. The aforesaid selective treatment by the State/disciplinary authority would, therefore, be contrary to public interest apart from violative of law declared by the Supreme Court. The Hon'ble High Court of Andhra Pradesh have, therefore, directed the Government / disciplinary authority to review all such cases where the Government Servants have suffered conviction and even if appeals or revisions against the conviction are pending, in the light of the decision and take appropriate corrective action and furnish the compliance report in the matter".

6. After careful examination of the legal implications of the orders of Hon'ble High Court of Andhra Pradesh dated 17.11.2009 in W.P. No. 8000/2009 & batch cases, Government have reviewed the case of Sri P.L.N. Sarma, Assistant Engineer (Retired), and have decided to stop further payment of Provisional Pension to him.

7. Accordingly, it is hereby ordered to stop the payment of Provisional Pension to Sri P.L.N.Sarma, Asst. Engineer (Retd.) forth with, in view of the fact that the conviction in case of Sri P.L.N. Sarma, Assistant Engineer (Retired) still holds good, and the interim orders of Hon'ble High Court in the Criminal Appeal filed by him, which suspended the sentence awarded by the lower court, do not have a bearing on the efficacy of his conviction in the lower court.

8. The Engineer-in-Chief (AW), Irrigation & CAD Department, Hyderabad shall take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

SHAILENDRA KUMAR JOSHI
PRINCIPAL SECRETARY TO GOVERNMENT

To

Sri P.L.N.Sarma, Asst. Engineer (Retd.), formerly worked at Town Works Section, Irrigation Circle, Vijayawada through the Engineer-in-Chief (AW), Irrigation & CAD Dept., Hyderabad.

The Engineer-in-Chief (AW), Irrigation & CAD Dept., Hyderabad.

Copy to:

The Superintending Engineer, Irrigation Circle, Guntur.

The General Administration (Spl.C) Department.

The Govt. Pleader for Services-II, High Court of A.P., Hyderabad.

The Accountant General (A&E), Andhra Pradesh, Hyderabad.

SF/SCs.

//FORWARDED::BY ORDER//

SECTION OFFICER